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February 22, 2006

(Date)

Albert W. Watkins

Name of applicant, assignee, of registered representative

 22 Feb 06

Signature

Date of Signature

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In re application of:

Serial #: 10/750,738
For: Coffee Saver
Filed: December 31, 2003
Inventor: John M. Rice
GAU: 3742
Examiner: Fuqua, Shawntina
Docket #: RiceWedge

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is respectfully requested for the reason(s) stated on the attached sheet(s).

Respectfully,


Albert W. Watkinsreg. no. 31,676
(320) 363-7296

Enc.: Reasons for Request

02/23/2006 TL0111 00000042 10750738

01 FC:2252

225.00 0P

02/23/2006 TL0111 00000042 10750738

02 FC:2401

250.00 0P

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REASONS FOR REQUEST

In accord with the Official Gazette notice dated July 12, 2005, applicants may request a pre-appeal conference from a panel of examiners when the applicants believe there may be either (1) errors in facts, or (2) omission or presence of essential elements required to establish a prima facie rejection. The present request is based upon (2), omission of essential elements required to establish a prima facie rejection.

The matters for which review by the panel is respectfully requested are:

1. Whether the prior art relied upon by the Examiner in the final rejection dated September 22, 2005 contains or teaches a device to tilt a beverage pot base relative to the warming surface, such that a majority of the base is above and separate and a minority is in direct contact with the warming base. This feature is recited in each of the independent claims.
2. Whether the prior art relied upon by the Examiner in the final rejection dated September 22, 2005 contains or teaches a spacer having a thickness less than an elevation of a pot retaining feature. This feature is recited in dependent claims 5 and 10.

Matter 1: Does the prior art relied upon by the Examiner in the final rejection dated September 22, 2005 contain or teach a device to tilt a beverage pot base relative to the warming surface, such that a majority of the base is above and separate and a minority is in direct contact with the warming base?

Each independent claim recites this feature. Claim 1 recites in relevant part: "a spacer between one portion of said beverage pot base and said warming surface to elevate a majority of said beverage pot base above and separate from said warming base while tilting said beverage pot base relative to said warming surface, a minority of said beverage pot base in direct contact with said warming base." Original claim 7 recites in relevant part: "

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a means to tilt said liquid retaining pot with respect to said heating base while maintaining said liquid retaining pot base in point contact with said heating base, said retained liquid pooled to a maximum depth adjacent said point contact." Original claim 12 recites in relevant part: "supporting a minority portion of said pot bottom upon said spacer and a second minority portion of said pot bottom upon said surface, a majority portion of said pot bottom spaced from but adjacent and elevated with respect to said warming surface."


In contrast to the present invention, neither Stasyshyn nor Box attempt to tilt the pot, nor to both space a majority of the pot and also maintain point contact with the plate. In the outstanding office action, the Examiner alleges that Box is capable of tilting the pot. However, there is no teaching of the same in Box, even at the sections referenced by the Examiner. Furthermore, both Stasyshyn and Box provide a fully circular surface, which entirely spaces the pot from any contact with the surface. Consequently, without the benefit of hindsight from the present disclosure, there is no teaching or suggestion of the tilted beverage pot as recited by the applicant.

Matter 2: Does the prior art relied upon by the Examiner in the final rejection dated September 22, 2005 contain or teach a spacer having a thickness less than an elevation of a pot retaining feature? This feature is recited in dependent claims 5 and 10. Neither Stasyshyn nor Box illustrate nor provide any teaching of any pot retaining features. The Examiner's action is also silent on this feature recited in these claims 5 and 10.

While there remain additional issues, review of these remaining issues is not sought at the present time, in staying with the spirit of the Official Gazette notice of July 12.

Review of the panel is appreciated.

Sincerely,


Albert W. Watkins
reg. No. 31,676